

MDR Tracking Number: M5-04-0598-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 09-30-03. Per Rule 133.308(e)(1) dates of service 07-09-02 through 09-19-03 were not timely filed.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits and physical medicine procedures were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10-08-02 through 05-14-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 23rd day of January 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

January 21, 2004

Amended January 22, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The patient was injured when he was hit by a truck driven by a co-worker. He suffered injuries to the right shoulder and right knee. He was initially treated by ___ and apparently later transferred to ___. MRI of the right knee indicated a traumatic injury without tearing of the menisci or the cruciate ligaments. There was a chondromalacia, grade I. MRI of the right shoulder indicated that there was a tear of the rotator cuff. Surgery was recommended by ___. Pharmacotherapy included hydrocodone, parafon forte and naprosyn. No peer review was presented for review by the carrier.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits and physical medicine procedures as medically unnecessary with a peer review.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The reviewer finds that there was adequate documentation to the file to indicate that the patient had significant psychological overlay in this case. Specifically, record entries documented a VAS of “10” on a scale of 1—10, indicating that the patient was not handling his pain in a healthy manner. Clearly, pain of 10 is something that would be unlikely for an ambulatory patient, and this patient’s lack of a past history of depression combined with his present condition of depression and anxiety made him a candidate for the treatment rendered. FCE evaluations and physical medicine procedures also were documented to benefit the patient’s condition. While the documentation did leave something to be desired, the reviewer was able to follow the meaning of the documentation well enough to agree with the protocol. There was no information from the carrier to refute the opinions of the treating doctor and the reviewer believes that this treatment was the most appropriate care available to this worker.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee’s policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,